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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,681	10/22/2003	Chen-Fa Huang	MR2551-283/CIP	4895
	7590 11/24/2004		EXAMINER DURAND, PAUL R	
Phillip Liu 6980 Whiteoak Drive Richmond, BC V7E4Z9 CANADA			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/689,681	Applicant(s) HUANG, CHEN-FA	
	Examiner Paul Durand	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al (US 6,481,610) in view of McGuinness et al (US 6,273,315) and Smith et al (US 4,300,684).

Liu discloses the invention substantially as claimed including a cap feeding assembly comprised of tube 31, top and bottom openings 311 and 310, mounted on the plate like surface of delivery means 20, caps, in the form of washers 50, connected to each other prior to use by string 51, which is run through the center hole and a pushing mechanism comprised of spring 33, which pushes the washer into the feeding slot (see Figs. 1-3, 8, C2, L25-63 and C3, L26-49). What Liu does not disclose is the use of a push rod for the pushing mechanism and a cap assembly that is frictionally fit together prior to use. However, McGuinness teaches that it is old and well known in the art of tool driving to provide a tool with a housing 24, which holds circular tags to be fastened 50, and are moved downward by a feed mechanism comprised of spring 80 and push rod 82 for the purpose of providing uniform feeding force to a fastening member during operation (see Fig. 4 and C3, L16-32). Furthermore, Smith teaches that it old and well known in the art of grouping to provide a grouped group of items 14, with a circular

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center hole in an alternative embodiment, held together by a metal strip, with a ring shaped head portion 22 and legs 22a and 22b, which have an enlarged portion at the end for the purpose of holding a group of items together prior to use (see Figs. 1-6, 13 and C4,L10-65). Still furthermore, while Liu discloses a closure element for the tube comprised of cap 32 and projection 321, the examiner takes Official Notice that it would have been obvious to substitute the cap and projections of Liu with a screw cap that screws into the tube for the purpose of providing alternative means of securing a closure. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Liu with the push rod feeding as taught by McGuinness and the retaining device of Smith for the purpose of efficiently feeding items into a tool.

Response to Arguments

3. Applicant's arguments filed 9/14/2004 have been fully considered but they are not persuasive.

Applicant argues that the combined reference and teaching of Liu, McGuinness and Smith does not teach of a cap with a circular hole in the center. The examiner disagrees with this argument. In an alternative embodiment of Smith, Smith shows a retained member with a circular center hole (see Fig. 13). Furthermore, the examiner asserts that applicants claimed invention concerns that of a cap feeding assembly and not the shape of a member that is used by the assembly. The examiner also asserts that the above cited art could perform applicants invention regardless of the shape of the center hole.

Therefore, for the reasons indicated above, the rejection is deemed proper.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 571-272-4459. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand
November 18, 2004



EUGENE KIM
PRIMARY EXAMINER